

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

July 7, 2011

Lyle W. Cayce
Clerk

No. 11-20392
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES CRAWLEY, Also Known as Chuck Crawley,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 4:09-CV-3457
No. 4:06-CR-204-1

Before REAVLEY, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Charles Crawley, federal prisoner # 66068-179, was convicted of mail

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 11-20392

fraud, embezzlement of property, embezzlement of union funds, and false entry in the records required by the Labor-Management Reporting and Disclosure Act of 1959. Crawley appeals the denial of release pending resolution of his 28 U.S.C. § 2255 proceedings and moves this court for release pending resolution of his request for a certificate of appealability, which he admits he has not yet filed.

Crawley argues that he should have been granted bail based on his contention that his mail fraud and embezzlement convictions are invalid in light of *Skilling v. United States*, 130 S. Ct. 2896 (2010), because they involved honest services fraud and that he has therefore served longer than the statutory maximum term of imprisonment. Alternatively, he argues that if only the embezzlement-of-union-funds conviction is invalid, he is eligible for immediate placement in a halfway house. We review the denial of bail for abuse of discretion unless the denial involves statutory interpretation, in which case we review *de novo*. See *United States v. Olis*, 450 F.3d 583, 585 (5th Cir. 2006).

Release pending appeal of the denial of post-conviction relief should be granted “only when the [movant] has raised substantial constitutional claims upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the [postconviction] remedy effective.” *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974). Crawley has not met those requirements. Accordingly, the denial of bail is AFFIRMED, and Crawley’s instant motion for bail is DENIED.